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July 1, 1998

Ms. Magalie R. Salas
Secretary
Office of the Secretary
1919 M. St., N.W.
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

Comments filed by PocketScience Inc. in re: PLEADING CYCLE ESTABLISHED FOR COMMENT ON
REMAND ISSUES IN THE PAYPHONE PROCEEDING (CC Docket No. 96-128)

I wanted to let you know how the recent payphone surcharge legislation is negatively impacting both innovation and the E-mail-for-Everyone service that my company has been developing.

My company, PocketScience Inc., was founded in October 1995 with the goal of making e-mail as accessible *for all people*, as the telephone. We think of ourselves as "The E-Mail Dial-Tone Company." Engineers, marketers, private investors, and venture capitalists have bought into our vision. We have grown to a staff of 30 and plan to release PocketMail™ Service, the first affordable, portable e-mail service ever in the Fourth Quarter of this year. Using our technology and service, anyone in the U.S. will be able to send and receive e-mail for less than \$10 per month without the need for an expensive Personal Computer or household RJ-11 telephone jack. Instead, PocketMail™ Service users will be able to send and receive their e-mail using a variety of \$99 consumer electronics products with a full screen and keyboard that are being developed by several leading consumer electronics manufacturers using PocketScience technology. And people do not require any computer skills to use PocketMail™ e-mail.

As a small, startup company focused on a formidable task, we cannot afford full-time lobbyists and have only recently been made aware of your new rule imposing surcharges on all toll-free calls made from payphones.

The FCC's recent payphone surcharge legislation throws our entire business into jeopardy, and demolishes our hopes for making E-mail Access for Everyone a reality. Specifically, the PocketScience technology enables e-mail to be sent and received over a toll-free (800#) number almost anywhere there is a dial-tone – including through pay telephones. Now that payphone operators receive a \$0.285 surcharge per toll-free call, less-advantaged members of our society, who would otherwise benefit greatly from a truly affordable, portable e-mail service (and cannot afford a cellular telephone) will not be able to afford PocketMail Service because we cannot sustain sub-\$10 monthly pricing in light of extra fees we now have to pay to payphone operators. In fact, because PocketScience must pass on the \$0.285 surcharge to our customers and because it is frequently lower income customers who rely heavily on payphones, the payphone surcharge for calling toll-free numbers turns into a regressive tax.

I believe I understand the intention of the surcharge by payphone operators for toll-free calls on payphones: the goal is to amortize the fixed and monthly cost of those payphones among *all* callers, even if they are not putting coins into the phone. The FCC's imposition of a surcharge of \$0.285 per toll-free payphone call does not provide an equitable solution to this problem because it does not properly match allocation of the surcharge in proportion to the actual utilization of the payphone. The FCC mandated surcharge unfairly penalizes all non-voice-call users of payphones, including people who access paging systems, auto-response/IVR systems, voicemail, and our PocketMail™ e-mail system. The call duration, and therefore payphone utilization, of these applications is significantly less than that of a typical voice-call. Applying a voice-call-oriented surcharge to these uses of the payphone is a misallocation of costs.

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For example, a person using a calling card and talking on a payphone for an hour is utilizing and depreciating a payphone far more than someone who is checking their e-mail, voicemail, or an IVR system for under a minute. Using the PocketMail™ *Anytime, Anywhere* e-mail system, an individual can check his/her e-mail in fifteen seconds, while the average voice call is three to four minutes long -- over 12 times as long (Frequently, a voice caller places a single call to a calling card 800 access number in order to complete multiple calls, thereby increasing the duration of an average voice call by many times). Yet, according to FCC regulations, both pay the same \$0.285 surcharge. A more equitable solution is to charge any surcharge on a sliding scale base upon per minute use (the longer the call lasts, the more the consumer should be charged for the use of the payphone with the total capped at \$0.285 per use after a certain amount of time). This is a more market-oriented approach to charging consumers for the use of the payphone because the surcharge payment is equitably matched to the actual usage and depreciation of the telephone.

It is also important to note that there is a major difference between the cost structure for coin and coinless calls initiated on payphones. Coinless calls are significantly less expensive than coin calls because coin calls require the payphone operator to physically come out and collect the coins from the payphone, while coinless calls do not. Coin calls also result in more damage to the payphone because people physically bang and abuse the payphone if a coin does not drop or drops through or does not register. Coinless calls eliminate all the major mechanical wear-and-tear on payphones that are incurred by coin calls. Thus, the FCC's regulatory policy of charging a \$0.285 surcharge for coinless calls is too high. This exorbitant surcharge will hamper innovation and stifle the growth of our business by forcing regulated surcharges to be higher than actual market costs of maintaining payphones for coinless use.

I would be happy to come meet with you personally to tell you more about our upcoming PocketMail™ *Anytime, Anywhere* E-mail Service and discuss alternative, *more equitable* means of compensating payphone operators for toll-free calls made on their payphones. In determining how to allocate costs for payphone use, it is important for the FCC to consider *ALL* forms of payphone applications -- including those that are just rolling out right now. A per-second, usage-based surcharge by payphone operators would better accommodate *all* future payphone-based services, including e-mail, and would lessen the unfortunate side-effect of penalizing the less-advantaged that results from the FCC's currently proposed flat-rate payphone surcharge mechanism.

Sincerely,



Neil M. Peretz
Chief Executive Officer